

SUPPLEMENTAL DETAILED ACTION

1. This Supplemental Office Action is in response to Applicant's argument with respect to the incomplete office action mailed 08/20/2008 (i.e., the office action failed to address the limitations of the newly added claims 39-42 in the amendment filed 04/30/2008).

Requesting Continued Examination (RCE)

2. Receipt is acknowledged of the Requesting Continued Examination (RCE) filed 05/27/2008. Claims 1-32, 34, 37 and 38 are pending.

Claim Objections

3. Claim 1 is objected to because of the following informalities:

Re claim 1, line 3: Substitute "each of said character" with -- each of said characters --.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 6-25, 34 and 37-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Tamura (EP 1 055 919 A1 - cited by the Applicant).

Re claims 1-4, 6-25, 34 and 37-41: Tamura an identifier comprising a machine readable bar or pictographic code, the code comprising: multiple characters, wherein each said characters is machine readable, is comprised of multiple components and has a machine readable value, wherein at least one said character is a changeable character the value of which is changeable from an original value to a modified value in response to a stimulus; wherein for each said changeable character, at least one of the said components is configured for being changed from an original state to a modified state in response to the stimulus to change the value of the changeable character from the a4q-original value to the a-modified value in response to the a-stimulus, wherein both the original value and the modified value of the changeable character are machine readable; wherein at least some of the machine readable components have binary values; wherein the code is a bar code and identifier each of the characters comprises a series of bars representing a digit, and each of the original value and the modified value is a different said digit; wherein one or more graphic symbols and/or characters are alpha-numeric characters; wherein the identifier includes a bar code or pictographic code; wherein the bar code is a 1-dimensional bar code or pictographic code (fig. 7); wherein the bar code is a 2-dimensional bar code or pictographic code; wherein the bar code is a 3-

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dimensional bar code or pictographic code; wherein the identifier includes at least one component configured for being read by a human which changes from an original form configured for being read by a human to a modified form configured for being read by a human in response to the stimulus (figs. 7A & 7B); wherein the stimulus is a change in temperature; wherein the stimulus is a change in pressure; wherein the stimulus is a change in electric current; wherein the stimulus is a change in electromagnetic field; wherein the stimulus is a change in light (level, accumulative, wavelength); wherein the stimulus is a change in Chemical composition; wherein the stimulus is exposure to certain gases or vapors; wherein the stimulus is exposure to certain liquids, emulsions or slurries; wherein the stimulus is exposure to certain solids; wherein the stimulus is a change in time or an indirect consequence of a change in time; wherein at least some of the components may be used to represent digits; wherein at least one of the digits is a check; wherein the check digit does not change in response to the stimulus and its value is incorrect after the identifier has responded to the stimulus; wherein the check digit does not change in response to the stimulus and its value is correct after the identifier has responded to the stimulus; wherein the check digit changes in response to the stimulus such that its value is incorrect after the identifier has been exposed to the stimulus; wherein the check digit changes in response to the stimulus such that its value is correct after the identifier has responded to the stimulus (figs. 7A-D; paragraphs [0036-0037]); label or tag 1 including an identifier 3 according to claim 1 (fig. 6); a container having an identifier according to claim 1 (i.e., a label can be attached to

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anything); a container having an identifier according to claim 3 (i.e., a label can be attached to anything); wherein: the code is a bar code and the value of each said changeable character of the bar code is a number selected from the group consisting of 0, 1, 2, 3, 4, 5, 6, 7, 8 and 9; and wherein the original value and the modified value of each said changeable character in the bar code are different numbers selected from said group (figs. 7A-D); wherein: the bar code comprises at least a first said changeable character and a second said changeable character, whereby the value of at least two of the characters of the bar code change in response to the stimulus (figs. 7A-B).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of

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35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 26-31 and 38-39 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Tamura in views of King ET al (US 7098850 B2). The teachings of Tamura have been discussed above.

Re claims 26-31 and 38-39: Tamura has been discussed above but is silent with respect to the identifier includes a power source and an electrical circuit; wherein the power source includes at least one of a primary electric cell, a secondary electric cell, a photovoltaic device, a piezo-electric device or a capacitor; wherein the identifier including a power antenna and an electrical circuit; wherein at least part of the power source is formed by printing; wherein at least part of the power antenna is formed by printing; wherein the electrical circuit is placed such that it will tend to be disturbed if the package is opened or tampered with; respectively.

King et al teaches a transponder 10 disposed on a food container (200, 600) having an antenna formed by printing (figs. 1, 11B and 15A; col. 6, lines 1+ and col. 13, lines 30-55).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of King et al into the system as taught by Tamura with an advanced system for producing a more accurate and faster reading detecting due the RFID/transponder verse barcode. Furthermore, such modification would have been an obvious engineering

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variation, well within the ordinary skill in the art, for identify a product condition, and therefore an obvious expedient.

9. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura in view of Zahn (DE4303035 - cited by the Applicant). The teachings of Zahn and Tamura have been discussed above.

Re claim 32: Tamura has been discussed above but is silent with respect to an identifier formed by applying a light colored material over a dark colored surface such that gaps in the light colored material form a machine readable code.

Zahn discloses an identifier formed by applying a light colored material over a dark colored surface such that gaps in the light colored material form a machine readable code (see English abstract).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Zahn into the system as taught by Tamura for intended user (i.e., utilize Zahn system in a food processing/marketing system). Furthermore, such modification would such modification would have been an obvious engineering variation, well within the ordinary skill in the art, for detecting/determining food contamination, and therefore an obvious expedient.

10. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura. The teachings of Tamura have been discussed above.

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Re claim 42, Tamura has been discussed above but is silent with respect to wherein the modified value is indicative of the presence of a product feature for which a higher sale price is chargeable for sale of the product.

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to modify the bar code value of Tamura to indicate the presence of a product feature for which a higher sale price is chargeable for sale of the product for intended use. Furthermore such modification would have been obvious to an ordinary skill in the art due to the fact that the barcode can be encoded with any kind of information, and therefore an obvious expedient.

Response to Arguments

11. Applicant's arguments with respect to claims 1-32, 34, 37 and 38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 571-272-2397. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven S. Paik can be reached on 571-272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Uyen-Chau N. Le/
Primary Examiner, Art Unit 2887